

## **EXHIBIT 1**

### **INTRODUCTION**

Respondents are the City of Yuba City (“Respondent Yuba City”), located in northern California in Sutter County, and Rory Ramirez, an elected city councilmember and the former appointed mayor of Yuba City. In this matter, on or about June and August 2008, Respondents sent, at public expense, two mailers featuring elected Mayor Rory Ramirez.

For the purposes of this stipulation, Respondents’ violations of the Political Reform Act (the “Act”)<sup>1</sup> are stated as follows:

**COUNT 1:** Respondent City of Yuba City used public funds to send a mass mailing on or about June 19, 2008, which was coordinated with and featured Respondent Ramirez, an elected city councilmember serving as appointed mayor of Yuba City, in violation of Section 89001.

**COUNT 2:** Respondents City of Yuba City used public funds to send a mass mailing on or about August 8, 2008, which was coordinated with and featured Respondent Ramirez, an elected city councilmember serving as appointed mayor of Yuba City, in violation of Section 89001.

### **SUMMARY OF THE LAW**

#### **Prohibition Against Mass Mailing at Public Expense**

Government Code Section 89001 of the Act prohibits the sending of a newsletter or mass mailing at public expense. Section 82041.5 defines a “mass mailing” as more than 200 substantially similar pieces of mail, not including a form letter or other mail sent in response to an unsolicited request, letter or other inquiry.

A mailing is prohibited by Section 89001 if four criteria are met. First, the item is “delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box.” (Regulation 18901, subd. (a)(1).) The item may be any tangible item, such as a videotape, record, button, or written document. (*Ibid.*)

Second, the item features an elected officer affiliated with the agency that produces or sends the mailing. (Regulation 18901, subd. (a)(2)(A).) An item features an elected officer when the item includes, among other things, the elected officer’s

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

photograph or signature. (Regulation 18901, subd. (c)(2).) A mailing containing the name, office, photograph or any other reference to an elected officer who consults or acts in concert with the agency to prepare or send the mailing also fulfills the second criteria.

Third, any of the cost of distributing the item is paid for with public moneys. (Regulation 18901, subd. (a)(3)(A).) In the alternative, the cost of designing, producing, and printing the item exceeding \$50 is paid for with public moneys and the design, production, or printing is done with the intent of sending the item other than as permitted by the Act's mass mailing rules. (Regulation 18901, subd. (a)(3)(B).)

Fourth, more than 200 substantially similar items are sent, in a single calendar month.<sup>2</sup> (Regulation 18901, subd. (a)(4).)

## **DISCUSSION**

### **COUNTS 1 & 2 - Sending a Prohibited Mass Mailing at Public Expense**

Yuba City is governed by a five member city council and a city manager. The city council is chosen by the electorate of Yuba City. The city council then appoints one city councilmember to serve as mayor. At all times relevant herein, Respondent Ramirez was the appointed mayor.

Two mailers were printed and sent by a consultant hired by Yuba City City Manager, Steven Jepsen. Mr. Jepsen signed an agreement with a consultant<sup>3</sup> to perform public education and outreach regarding the Walton/Hillcrest Water issues pursuant to approval given by the city council on May 6, 2008. This approval included authorization for Mr. Jepsen to sign an agreement with the consultant for an amount not to exceed \$75,000, with funding provided equally from the Hillcrest Water Fund and Yuba City's General Fund.

After discussions between Mr. Jepsen, city staff, and the consultant, it was determined that the most effective way to inform Yuba City residents about the water proposals was to use the mayor as the spokesperson. As a result, two mailers were sent out that featured the then current Mayor of Yuba City, Respondent Ramirez. One mailer was a letter and the other was a brochure. Both provided information regarding the Walton/Hillcrest surface water proposals.

#### **A. Count 1 – The Brochure**

Respondent City of Yuba City caused a hired vendor to send in a calendar month 4,000 substantially similar brochures, on or about June 19, 2008, to water district

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<sup>2</sup> Subdivision (b) of Regulation 18901 contains numerous exceptions to the mass mailing prohibition, none of which apply in this instance.

<sup>3</sup> The consultant, ICF Jones & Stokes used a subcontractor to prepare and mail the two mailers, but billed the city directly.

customers of the Hillcrest Water District in and around Yuba City, California, which was prepared in coordination with Respondent Ramirez. The brochure included a letter signed by Respondent Ramirez, information regarding Yuba City's proposal to convert Hillcrest Water customers to city surface water, and Respondent Ramirez's picture. The brochure's production, printing, and mailing costs were \$8,643, which was paid for with funds from the Hillcrest Water Fund and Yuba City's General Fund.

By sending the brochure on or about June 19, 2008, featuring Respondent Ramirez, to approximately 4,000 water district customers of the Hillcrest Water District at a public expense of \$8,643, Respondents violated Section 89001.

#### **B. Count 2 – The Letter**

Respondent City of Yuba City caused a hired vendor to send in a calendar month 4,000 substantially similar letters, dated August 8, 2008, to water district customers of the Hillcrest Water District in and around Yuba City, California, which was prepared in coordination with Respondent Ramirez. The letter was signed by Respondent Ramirez and included a message regarding Yuba City's proposal to convert Hillcrest Water customers to city surface water. The letter was written by Mr. Jepsen, then finalized and sent out by the consultant. The letter's production, printing, and mailing costs were \$9,876, which was paid for with funds from the Hillcrest Water Fund.

By sending the letter on or about August 8, 2008, featuring Respondent Ramirez, to approximately 4,000 water district customers of the Hillcrest Water District at a public expense of \$9,876, Respondents violated Section 89001.

### **CONCLUSION**

This matter consists of two counts of violating Section 89001, and carries a maximum possible administrative penalty of \$5,000 per violation, for a total administrative penalty of \$10,000.

The typical penalty for a mass mailing sent at public expense is at or near the high end of the penalty range. Based on the Enforcement Division's investigation into this matter, this is an atypical mass mailing at public expense case in that the harm that is meant to be prevented by this section is the harm that occurs when incumbents use public resources as a way to self-promote for reelection, and, in this case, before these mailers were sent out, the mayor had made it known publicly that he was not pursuing reelection or election to another public office. In fact, the mayor did not seek reelection. In addition, the city contends that it used the mayor in the mailings with the intent to more effectively disseminate information to water customers, not to promote the mayor. The city also contends that this violation occurred because of its reliance on a consultant hired to provide professional expertise in public education through mailers.

Also, Respondents have cooperated with this investigation. As a condition of this settlement, Respondents have provided proof that the City of Yuba City has paid for

these mailings from revenue-generating sources and reimbursed any taxpayer funds spent and Respondent City of Yuba City has taken full responsibility for the violation that occurred. Therefore, the facts of this matter justify the imposition of a total administrative penalty of \$6,000 (\$3,000 per violation).